

principles of social equality. In this sense, social equality pre-supposes a classless society. The French Revolution destroyed the class distinction in France. In England, the nobility, though it survives, is not a rigid caste. It is fluid in nature inasmuch as there is a constant flow between the nobility and the commonality. The Indian caste system, though originally fluid, degenerated into a water-tight system which soon became an engine of oppression utilised by the hierarchy of castes to exploit their fellow-men of the lower castes. But the liberalising influence of Western education and the crusade started against the system by the late Mahatma Gandhi have broken down the rigour of the caste in India. The New Constitution of India has also provided for the social equality of her citizens by a declaration of the fundamental rights and by expressly forbidding the practice of 'untouchability' in any form.

Political equality—It means universal adult suffrage, the equal right of all adults to be elected or appointed to public services. But this does not mean that all can or will have equal voice in the affairs of the state but the conferment of the right simply removes the hindrances. The exclusion of minors, lunatics and criminals from the right to vote stands to reason but the exclusion of women from the enjoyment of this right as was in France, Germany, Switzerland, can hardly be justified. The system of plural voting which confers upon a citizen a second or a third vote is in direct opposition to the principle of political equality. The prescription of a higher age qualification for membership in the upper house of legislatures as in the Senate of the U.S.A., and the Council of States of the Indian Union or a hereditary chamber as in Britain, is hardly compatible with the principle of political equality.

Legal equality.—It implies the idea of legality and impartiality of law, i.e., no man is above law and no one can be punished except for a distinct breach of law proved in a legally constituted court. But legal equality seems, at first sight, to be violated by the existence of administrative courts for the trial of public servants for offences committed in their official capacity. The system prevails in France and in Continental Europe. Even in common law states where 'the rule of law' prevails as in England, special administrative courts are created whenever necessary. The exemption of the President, Governor and some other high officers of the state from the jurisdiction of ordinary courts as prevails in the U.S.A., India, though an infringement of the principle of legal equality, can be justified on the ground of public consideration. But the most serious obstacle to the realisation of the ideal of legal equality lies in the inequality of income in modern society. The inequality in the distribution of wealth has brought into existence the richer and the poorer classes and the richer class is certainly in a more advantageous position to get greater amount of protection under law in so far as money can bring it by its liberal expenditure for successfully conducting a litigation. This brings us to the question of economic equality.

Economic equality.—Economic equality does not mean that all should possess equal amount of wealth but what it really means is that equality up to the margin of sufficiency must be ensured to all. As has been pointed out by Laski, "there must be sufficiency for all before there is superfluity for the few." The existing inequalities of modern society is great and in order to secure economic equality, the glaring inequalities of existing fortunes must be reduced by providing for adequate opportunities for all. Differences of income there must

be, but these differences are justifiable when they are based on greater social service and not on exploitation of one class by the other by reason of their more advantageous position in society. The ideal of economic equality is harder of realisation but it is a hopeful sign that almost all the civilised states have realised the importance of the ideal. The forces of communism have already invaded the domain of vested interests which are gradually though reluctantly relaxing their control over the good things of the earth. The only country where an attempt has been made not only to reduce the glaring inequality of income but also to ensure a minimum to all is the U.S.S.R., the economic foundation of which is the Socialist system of economy and Socialist ownership of the means of production and the abolition of the exploitation of man by man in accordance with the principle, "He who would not work, neither shall he eat." The inequality is the greatest in Britain and the U.S.A. In Britain, ten per cent of the population enjoy more than half the national income; the other ninety per cent must live upon less than half the national income. In the face of this glaring economic inequality in Britain, political democracy in that country has lost all meaning to the average voters.

Rights and Duties. Membership of the state confers upon a person certain rights, civil and political. Citizenship thus carries with it certain rights and these rights imply duties as well. A right has been defined as a power which enables a man to act according to his desire. But his desire to act freely may cause inconvenience to others. Thus if everyone is allowed to act freely and exercise his rights unbridled, life would become intolerable under such a condition. Only the stronger or the more cunning will enjoy right. But man is a social animal. He cannot lead an isolated line cut off from the rest. He has to live along with others: in groups and in associations, big or small. "You will stand by me and I will stand by you,"—this is the principle that makes human life possible. Therefore, everyone in society has certain claims on others, and others have also certain claims on him. These claims and counter-claims are the contents of rights. Rights are, therefore, the product of man's social life, but outside society, there cannot be any rights.

The highest aim of man's life is the development of his personality, the fullest expression of all that is best in him. Aristotle, the great Greek philosopher says, "Life is not merely living, but living well." It is for the sake of good life that we live and good life requires for its development certain conditions, which it is the duty of the state to ensure to its members. Rights may therefore be defined in the words of Laski thus, "Rights are those conditions of social life without which no man can seek, in general, to be himself at his best."

Correlation of Rights and Duties. But it must be borne in mind that everyone living in society is entitled to similar rights and that rights can be exercised for the good of society. Everyone has a right to life and property. But his right to life and property will make him conscious of the fact that others also possess similar rights and it is his duty to respect the rights of others. I have a right to education but I am dutybound to use my education in such a way as to contribute to the social good. The consciousness of common interest is the very foundation of rights in society. Rights of a citizen have therefore their corresponding duties which mean obligations. The rights of one imply the duties of others. My right to life implies that it is the duty of others to allow me to live and it also imposes an obligation on me to let others live. It also

implies that it is the duty of the state to help the individual to enjoy his rights. Rights are not empty claims. They are correlative to functions. Thus rights and duties are two aspects of the same thing. Citizens therefore cannot enjoy rights unless they are prepared to do their duties. The state acts as the custodian of the rights of all. Rights are not only maintained by the state but they are also enforced by the state.

Classification of Rights. Rights may broadly be classified under two heads : *Civil* and *Political*. Citizens of a state enjoy civil rights both in relation to the state and to other individuals. A number of civil rights enjoyed by citizens constitute their civil liberty. The fundamental civil rights of a citizen are : (a) Right to life, (b) Right to personal freedom, (c) Right to work, (d) Right to property, (e) Right to contract, (f) Right to association, (g) Right to religion and conscience, (h) Right to speech and press, (i) Right to family life, (j) Right to education.

Particular Rights.

1. *The Right to Life*—This is the most important right of a man on which depends the enjoyment of other rights. The right implies that the individual himself is under no circumstances justified in taking his own life and that is why suicide is regarded as a punishable offence in all civilized states. The right to life also includes self-defence though not aggression. A woman who commits a murder for saving her honour is not regarded as a murderer. The right to life also indirectly implies the right to reproduce, i.e., to marry and beget children in order that the race may continue. The state may however forbid the marriage of people who have been suffering from hereditary and incurable diseases.

2. *The Right to Personal Freedom*—This implies the right to liberty and free movement. Unless a person is fully free to determine the general conditions of his life, he cannot develop his personality to the fullest extent. The most important aspect of this right is that no man should be arrested or detained except by a process of law. Arbitrary restriction on the freedom of movement of a person may be prevented by applying for a *Writ of Habeas Corpus* to a court. But it should be borne in mind that the state may partially or totally restrict this right in times of national emergency.

3. *The Right to Work*—This right follows from the right to life that a man must be provided with adequate means to earn and support himself. An unemployed man is a burden on society and as such it is the duty of the state to create a condition in society in which every able-bodied person may get opportunity for living on the reward of his labour, physical or intellectual. The right to work also implies reasonable hours of work at a reasonable rate of wage under conditions which do not impair the efficiency of labour. Although many states of today have adopted measures to reduce unemployment and to ameliorate the conditions of labour, very few states excepting the U.S.S.R. have legally recognised the right to work.

4. *The Right to Property*—This is a right which enables a person to use and enjoy his possessions freely. The right to sell, bequeath and exchange one's possession, movable or immovable, is implicit in the right to property. In modern times, the ethical basis of private possessions has been questioned on

the ground that private property increases inequality in society and tends to perpetuate a leisured class who live on the fruits of others' labour. In spite of some of its serious limitations, there is no gainsaying the fact that the institution of private property is an incentive to work and is necessary for the development of human personality. Ill-gotten property may be condemned and confiscated but property earned as a reward for service to society must be retained. What is necessary is not the total abolition of private property but its proper distribution in accordance with the quantity and quality of service rendered to society. Even in the U.S.S.R., the Communist leaders had to reverse their early programme of complete nationalisation by retaining private property within reasonable limits. The right to property however is not an absolute right. The government may claim a share of a person's property in payment of taxes. The state also reserves the right to regulate the ownership and transfer of private property. In times of national emergency, the government may temporarily requisition the use of a man's private property.

5. *The Right to Contract*—The right implies that a man may freely contract with others on equal terms and conditions. This right is the basis of trade and commerce which enable a nation to be economically sound. But this right is subject to certain limitations. Illegal contracts made for the purpose of bribetaking or dealing in slavery or immoral traffic are not recognised by the state.

6. *The Right to Speech, Press and Assembly*—Freedom of speech is everywhere considered to be an important right without which a man loses his personality. Speech is the vehicle of thought, ideas and ideals and unless a man is free to communicate his thoughts and ideas to his fellow-beings, he cannot attain the full stature of manhood. It is through the medium of speech that men exchange their ideas and are mutually benefited and in the absence of this right, there will be no new thoughts and ideas in society reducing society to eternal stagnation. Freedom of speech is a sort of weapon which can be used as a means of self-defence and protest against injustice and tyranny of others. It is essential to the successful working of a democratic government which requires an alert and intelligent public opinion to control its policy and action.

The right to press is implicit in the right to speech. Freedom of speech becomes ineffective unless a man has the right to publish what he can lawfully speak. The press is an important agency for the creation and dissemination of enlightened public opinion, the force of which no government can afford to ignore. Freedom of speech and opinion means that a person can express his ideas of public good and realise truth in life. If he is denied this right, he will cease to think seriously on any matter. If a person ceases to think, he cannot be expected to play his role as a worthy citizen. But this does not mean that he is free to express his opinion as he likes. Freedom of speech and opinion should not be abused by slandering or scandal-mongering. In that case, the state is justified in suppressing freedom of speech by the ordinary law of libel.

It is argued sometimes that freedom of opinion may be suppressed in times of war and the state is justified in doing so for its own safety. There is no doubt that war creates a situation in which the whole nation should unanimously support the government. But this does not mean that the state possesses absolute power by virtue of which it can make war at any time without any reference to the will of the people. Prof. Laski is emphatically of the opinion that the outbreak of war does not in any way limit the right of a person to free expression of his opinion. The citizens cannot be coerced to think according to the

government thinks. They have a right to differ and this right to hold individual opinion constitutes the essence of citizenship. Laski asserts that the citizen "must support the war if he think it right and oppose it if he think it wrong." The aim of a popular government is to secure full civil and political liberty to all and as such there should not be any conflict of interest between the individual and the state either during war or peace.

The right to assembly in meetings and to form associations follows from the right to speech. Without this right the social nature of man cannot develop. The common interests of society demand that men should meet in assemblies and discuss and express their opinion freely. But this right also is not an absolute right. The state as the source and guardian of rights is justified in suppressing this right if an assembly of men or a particular association indulge in activities which are detrimental to public interests or to the very existence of the state.

7. *The Right to Religion and Conscience*—This right implies that a person is free to profess and practise any religious belief provided such profession and practice do not come in conflict with the prevailing social sense of decency and public order. The right to perform necessary rites connected with particular religious practice is also implicit in it. The right implies that religion is purely a private affair of the citizens and the state should be non-interfering in this matter. The state which is neutral in its attitude towards religion is called a secular state.

8. *The Right to Family Life*—The right to family life means right to marry and beget children. It also implies the right to preserve the sanctity of family relations, especially control over children. As the family is regarded as the primary unit and basis of social organisation, the purity and inviolability of family life must be maintained. But this right is to be exercised in such a way that it may not come in conflict with social interest. This is why the state forbids temporary marriage and some states prohibit polygamy. The state recognises certain obligations on them, especially in relation to their children.

9. *The Right to Education*—The right to education is nowadays gradually assuming greater importance in civilized countries, for, it is education which makes a man fit for taking his proper place in the life of the Community. If citizenship consists in the contribution of one's instructed judgement to public good then the essential pre-requisite of such contribution is education which equips individuals to think and work rightly. Bereft of it, a man loses his freedom of will and becomes dependent on other's will. It is therefore the duty of the state to provide adequate opportunities for all to receive education according to their individual taste and capacity.

The extent of the civil rights enjoyed by citizens in a modern state is far greater than that enjoyed by citizens of the ancient world. The ancient state exercised a paternal control over its citizens and there was practically no aspect of a citizen's life which was really outside the control of the state. But individual liberty is an accepted dogma in modern times. Modern political thought exalts the individual and thus leaves ample scope to the individual for self-development. The rights enumerated above are therefore regarded as almost inviolable.

Political rights are nothing but the contents of political liberty which includes the following rights : (1) The right to franchise, (2) The right to be elected as

a member of the Legislature, (3) The right to hold public office in any service of the government, (4) Freedom of opinion which implies the right to discuss and criticise government measures.

The possession of the above rights enables the citizens to influence the policy and actions of the government either directly or indirectly through their representatives.

(1) *The right to vote* is very important inasmuch as it gives the voter the right to participate in political affairs. It makes him conscious of his own position in society and enables him to feel that he is a self-directing man. No adult citizen should be debarred from the exercise of this right on grounds of sex, poverty or ignorance.

(2) *The Right to be elected* as a member of the Legislature is not allowed to all. Only those who have the capacity and willingness to serve the community seek election to Legislature or to Local bodies.

(3) *The right to hold public office* implies that everyone should be given equal opportunity to hold office under the government provided he is found fit to hold office. No person who has been declared fit by a competent authority should be denied the right to hold a post by reason of his caste, colour or religion.

(4) *The right to discuss and criticise government policy and measure* is regarded as an important right. The government of civilised countries welcome all helpful and constructive criticisms from the public. These criticisms enable the government to form an idea about public opinion on government measures. Once the government gets an idea of popular feeling, it moulds its policies accordingly. No popular government will attempt to stifle public opinion.

Social and Economic Rights.

The Universal Declaration of Human Rights adopted by the General Assembly on 10th December, 1948 mentions the economic, social and cultural rights of the individual along with the civil and political rights. Article 22 of the Declaration says, "Everyone, as a member of society, has the right to social security and is entitled to realization, through national effort and international co-operation and in accordance with the organisation and resources of each State, of the economic, social and cultural rights indispensable for his dignity and the free development of his personality."

It is said that civil and political rights can never be real unless these are accompanied by social and economic rights. In modern welfare states the citizens enjoy certain social and economic rights along with the civil and political rights. Although the social and economic rights have not been recognised by the constitutions of most of the states but today almost all the states recognise the importance of these rights.

Social Rights refer to those social security and social welfare measures which enable the individual to lead a decent and healthy life and develop his physical and mental well-being. Among social rights, right to education, right to protection of health, right of public assistance in case of illness, old age, infirmity and other cases of undeserved want, right against exploitation may be specially mentioned.

Economic Rights are those rights which offer opportunities to an individual to earn his livelihood, to lead a decent life free from the haunting fear of want and insecurity and to perform his duties as an effective and significant member of the society. The right to work, the right to adequate wages, the right to rest and leisure, the right to form and join the trade union and the right to participation of workers in the management are some of the significant economic rights.

The Doctrine of Natural Rights.

Many writers have laid great stress upon a number of rights which are believed to be conferred on man by nature. Man is born with these rights which inhere in him. These rights comprise the right to life, liberty, property and the pursuit of happiness. Inborn, permanent and inalienable as these rights are, the state cannot deprive any man of any of these rights, for, "They are as much a part of his nature as the colour of his skin and the power of locomotion."

The doctrine of natural rights, originally a product of Greek political speculation, received a special prominence in the hands of the three social contract writers, namely, Hobbes, Locke and Rousseau. Hobbes interpreted natural rights in terms of power which enabled a man to satisfy his desires without any reference to the convenience or inconvenience of others. To him, natural rights were based solely on might. Locke was more reasonable in his definition of natural rights. His state of nature was characterised by equality and freedom for all. But due to certain inconveniences of the state of nature, men agreed to form a civil society by foregoing some of the rights with a view to protecting the more important rights, viz., the right to life, liberty and property. The theory of natural rights assumed a different form in the hands of Rousseau who made the general will the guardian of the rights of the people. According to him, men enjoyed equal rights in the state of nature and even after the transfer of rights to the general will, they remained substantially equal as integral parts of the general will. So, according to Rousseau, these rights are neither inalienable nor inherent rights of man.

The doctrine of natural rights exerted a tremendous influence on the framers of the American and the French constitutions. In both the countries, the doctrine was given a great practical importance in the Declaration of Rights of Man and it became the very foundation on which the constitutions were drawn up. In both the countries, the constitution began with the declaration of these inborn, inalienable and equal rights of man and the primary duty of the government was to secure and promote these rights which include "liberty, property, security and resistance to oppression."

The old theory of natural rights has been rejected by the modern sociological school of writers who have offered a more rational explanation of natural rights. The chief exponent of this school is Professor Giddings who is of opinion that man is not born with a number of interests and inalienable rights rather these rights he secures as a social being and these rights can be exercised in the sphere of social relation inasmuch as they promote both individual as well as social good. Professor Laski has interpreted natural rights in the sense that without them, no man can develop his personality to the fullest extent and it is therefore imperative on the part of the state to maintain a system of rights which guarantees to the individual such rights as the right to freedom of speech, freedom of association, the right to work, the right to an adequate wage, the right to rest and leisure and the right to vote and represent.

The above discussion reveals the fact that there is a fundamental difference between the old view and the modern view about natural rights. While the earlier advocates of the theory of natural rights sought to explain the origin of the state in terms of these rights, its modern exponents seek to justify the existence of the state as the custodian of these rights. A state which cannot guarantee to its citizens these rights cannot possibly claim any valid allegiance from them.

Criticism.

First, the doctrine of natural rights has been criticised as unreal on the ground that the word 'natural' admits of different meaning and that there is no unanimity of opinion regarding rights which are called natural.

Secondly, the notion of natural rights is variable and as a matter of fact the doctrine has varied from age to age. What might be considered as a natural right in one particular age might not be considered as a natural right in a subsequent age. Thus the right to keep slave was considered natural and necessary in Aristotle's time but this right is now considered as a violent breach of human rights which is punishable by law.

Thirdly, rights can have no existence apart from and outside the state. Outside the state, there can be rights which are based solely on might. Might tempered by social forces is transformed into right and the state is the only source of rights because it provides opportunity to all so that everybody can seek to develop all that is good in him.

Fundamental Rights.

A critical examination of the rights leads us to the conclusion that none of these rights is absolute, on the contrary, each one of them is limited by the equal rights of others and also by considerations of social good. Every right is therefore to be exercised within the limits set by the state which is the custodian of the rights of all. In spite of these limitations, there are certain primary rights of man without which no man can in general develop his personality to the fullest extent. In every civilized country, a great emphasis is laid upon them, for, they are indispensable to the fullest development of a man's personality according to his natural aptitude. Hence they are called Fundamental Rights which are broadly summed up in life, liberty, property, freedom of conscience, etc.

These rights are given so much priority and precedence over others that special provision is made in the constitution to safeguard them properly against encroachment by individual caprice or by governmental high-handedness.

In federal states like the U.S.A. and India, these rights are enshrined in the constitution to impart a sanctity and special force to them. If these rights are invaded in any way by any authority, judicial decision protects them by declaring such encroachment as *ultra vires*. In England, the rights of the citizens have not been protected by the provision of a written constitution rather the general principles of the constitution are the result of judicial decisions determining the rights of citizens in particular cases brought before the courts.

But it should be borne in mind that a mere enumeration of these rights in the constitution of a country is not an adequate guarantee for the enjoyment of these

rights. They are given a place in the constitution with a view to giving proper emphasis on their importance in the life of the citizens. Rights when guaranteed by constitutional provisions cannot be very easily encroached upon either by the executive or by the legislature. Thus constitutional provision for fundamental rights ensures to the individual the enjoyment of certain rights by limiting the powers of the government and thereby reconciling the liberty of the individual with the authority of the state.

Legal View of Rights.

This is a view which regards the state as the sole source of rights. A right is a claim which is enforced by the state upon order of its courts. This implies first that rights are defined and their scope determined by the state. These also cannot exist independently of the state. The state creates and maintains a system of rights through the instrumentality of law which guarantees the enjoyment of rights. As rights are created and sustained by law, the rights with their character and contents change with the change of law.

It is difficult to make a correct idea about the nature of rights solely by its legalistic interpretation. The extent of rights enjoyed by a citizen in a particular society at a particular time may not be the same as those which he should enjoy for the fullest development of his personality. In other words, the legally recognised rights do not in any society constitute the whole list of rights which a man should ask for. The right to education, for instance, is an important right without which no man can attain his best self. But in many societies, this is not a legally recognised right. Again, as a community-building animal, man has created numerous associations within society, for satisfying his various needs and in relation to each of these, man has a certain number of necessary rights though not legally recognised. Recognised or unrecognised, these rights are helpful to the development of his individual personality and as such the importance of these rights cannot be minimised simply because these are not recognised by the state. Lastly, rights are the product of a mode of thinking in a particular society at a particular period of time. Rights emanate from a social sense of what is just or what is right. Law simply reflects and expresses in a particular form that social sense. Therefore, in the last analysis, it is the community and not the state or law which is the source of all rights. Law simply expresses and embodies the social will. The legal view of rights is therefore incomplete. Rights should be interpreted both in terms of law and morality.

Economic Basis of Rights.

Different schools of writers have sought to interpret the conception of right from different view points. Irrespective of the view points, the one important fact about right is that as rights are created and maintained by state laws, the nature and character of rights are largely conditioned upon the laws passed by the state. So an analytical study of rights should be preceded by an analytical study of law.

Laws passed by a state at a particular time have hardly any general character. They reflect only the will of the ruling class who are in possession of the economic power of the state. Karl Marx and his followers uphold the view that law far from securing justice to all seeks to promote the interest of that class which is the holder of economic power. The manner of distribution

of economic power at any given time and place determines to a great extent the nature of laws at that time and place. The capitalist class is the dominant class in modern society. It is they who can influence the centre of political authority and it is in their class interest that the legal imperatives are shaped and imposed. Under such conditions, rights imply special privileges to the holders of economic power only. The vast propertyless class can have no rights under such a social order. It is only in a socialist order based on socialist ownership of the factors of production that rights can be ensured to all.

The above view of rights no doubt highlights the great disparity of wealth and income in the existing society and it also suggests that rights cannot attain its general character unless the great disparity is removed. But it should be borne in mind that state laws which create and sustain a system of rights do not reflect only the will of one dominant class rather they are influenced by the sum total of the various social forces, such as, trade union political party and other interest-groups. As democratic ideas are gaining ground, consideration of general rather than particular interest is influencing the course of state-action.

The Right to Resistance.

One of the fundamental obligations of a citizen is allegiance and obedience to the state. In fact obedience to the state by the citizens is the very basis of the state. But the question is: Is this obedience unconditional and unquestionable? Are there no circumstances when the citizens can question the validity of a law passed by the legislature or of an *ukase* enforced by the power that be? If obedience is conditional, it will shake the very foundation of the state and if on the other hand, obedience is unconditional, it will lead to oppressions and repressions which in their turn involve the spiritual death of the citizens.

Citizenship has been defined by Laski as the contribution of one's instructed judgment to public good. In order that a citizen may contribute his best to social good, he must have the right to think and express what he considers to be conducive to public interest. If a citizen thinks that a particular policy or action of the government is detrimental to the interests of the people, it is his duty, as a true citizen, not only to criticise but also to oppose the government actually by organising public opinion. A government which fails to do its fundamental duties to the citizens, a government which places group interest above national interest has certainly no claim upon the allegiance and obedience of its citizens and the citizens in their turn will be failing in their duties if they do not replace the government by one which is more popular in its character and contents. Some may say that the application of force for ousting an oppressive government is fraught with dangerous consequences, for violence begets violence equal in intensity and opposite in direction. Poets, philosophers and idealists have sung songs in praise of the non-violent method but history bears testimony only to the efficacy of the violent method. The revolution of the American colonies, the French and the Russian Revolutions were not fought in vain. The emancipation of the slaves and the recognition of the rights of labour came not exactly through constitutional and peaceful means. The Machiavelian maxim that the end justifies the means should not be the guiding principle of a popular upsurge against the government but it must be said that where constitutional methods fail to achieve the desired end, extra-constitutional methods must needs be adopted.

The relation between the government and the people in the last analysis, is one of reciprocal rights and obligations, of protection and obedience. If the government can apply force against citizens for non-conformity to its laws, there is no reason why the citizens should not have the right to use force against a government which fails to ensure to its citizens those conditions of life without which they cannot develop all that is good in them. Viewed from this standpoint, the right to revolution seems to be natural and necessary.

But the right to resistance has its limit. Resistance is necessary for the restoration of the just rights of the people when these are denied to them by the state. But it should be remembered that revolution is a reaction against the oppression and repression of the state and as such revolutions are often carried too far much in excess of what the situation demands. When revolutions are carried too far, it becomes detrimental to national interest. In the interest of the public, therefore, the excesses of revolutions should be avoided and if necessary resistance to the state should be abandoned.

Safeguards of Rights. The fullest development of a man's personality requires that he must have certain rights. They are regarded by all as precious possessions and so inviolable that any encroachment upon them will raise a storm of protest from all sections of the public. The question is how are the rights of citizens to be safeguarded?

(a) The fundamental rights of citizens in almost every state are guaranteed by the *Constitution* which is generally written and rigid in character. The constitution includes a Bill of Rights which ensures to the citizens the enjoyment of their rights free from any interference. The constitution of the U.S.A. was the first of its kind to issue a Declaration of the Rights of man. Later on the U.S.A. was followed by France and in more recent times, the Weimar Constitution of Germany (1918), the Constitution of the Eire (1921) and the Stalin Constitution of the U.S.S.R. (1936) included such Bills of Right containing a long list of rights of the citizens. The Indian Constituent Assembly also formulated certain fundamental rights which have been incorporated in the new constitution of India. But a declaration of the rights of citizens by the constitution does not necessarily guarantee the enjoyment of rights. The governing authorities reserve the right to suspend the rights during emergencies like war. When Hitler came to power, the Bill of Rights in the Weimar Constitution was practically abrogated.

(b) It is claimed by many English writers that the rights of citizens are better safeguarded in their country by what is known as the *Rule of Law*. Rule of Law implies legality and impartiality of law. Everybody, rich or poor, is regarded as equal in the eye of law. There is one law for all from the Prime Minister down to the man in the street. Legality of law implies that no person can be detained without trial by a legally constituted court. His guilt must be proved first and then only his liberty can be curtailed. If a person is unlawfully arrested and detained, he can apply to a court of law for a writ of *Habeas Corpus*. The court will try the case and if there is no sufficient legal ground for his detention, the court will order his release. Thus the Rule of Law is an effective instrument of individual liberty.

(c) *Separation of Powers* was regarded by many as a safeguard of rights. The idea gained ground that power should not be concentrated if liberty was to

be maintained. If the three powers of the government—legislative, executive and judicial, were exercised by the same person or set of persons, there might be an abuse of power. So it was suggested that the three powers of the government should be entrusted to three different bodies each independent of the other. Thus arranged, if any organ of the government tends to encroach upon the liberty of the people, the others might act as a check on the former. But such a rigid separation of powers is neither desirable nor practicable. Besides, individual liberty does not depend on a mere mechanical separation of powers. In England, there is not only no separation of powers, but there is a good deal of combination of powers. Nevertheless the English people are free and enjoy full civil and political liberty.

(d) The rights of citizens in a modern state are better safeguarded by the *independence of the Judiciary*. Judges must be independent and impartial. They must not be subservient either to the Executive or to the Legislature. The tenure of office or promotion of judges should not depend on the whims of the executive or the Legislature. An independent and impartial Judiciary thus acts as a bulwark of individual liberty against encroachment by other individuals as also by the government.

(e) By far the most important safeguard of liberty is the *freedom-loving spirit of the people*. There is a normal tendency in every government to infringe the rights of the people. But if the people guard their rights and are prepared to fight for their preservation, there will be no interference from outside. Indifference or callousness on the part of the people may give rise to a dictatorship, oligarchy or a bureaucratic government. Thus it has been aptly said "Eternal vigilance is the price of liberty."

(f) *Democracy* is regarded as the best form of government, because it affords ample opportunity to the citizens to stand up for their rights and therefore the rights and interests of the people are better safeguarded under democracy than in any other form. Democracy is a form of government in which ultimate power rests with the people who can replace a government by another in case of violation of their rights by the government in power.

Rights in different Social Systems. Rights as has been said before are the product of man's social life. Outside society, there can be no rights. As the concept of rights is dependent on the concept of society, the concept of rights has changed with every change in the social system.

Under *primitive communism* when man was absolutely helpless bereft of the power to control nature to his advantage and also of technical knowledge, he used to meet his wants by collective efforts by hunting, fishing and gathering edible roots and fruits from nature. In a society of collective efforts and collective enjoyment, the question of rights could not arise in the face of equality of all the members of the society. Thus in a classless society free from exploitation of one class by another, there can be no difference between men with rights and men without rights. Even men and women had equal rights.

When the economic structure of society changed from hunting and cattle-rearing to cultivation of land, ownership of land appeared in society and this diabolical device of private ownership of land destroyed primitive equality of rights by making one class owner of land and the other class the land labourer.

The land labourer became the slave of the land-owner who became his master. The slave had no right—not even the right to life which depended on the whims of his master. The slave was not considered as a part of society and hence rights which are products of a social life were denied to him. So the slave owner had a monopoly rights and these rights were guaranteed by the king. The *slave society* therefore was a society of unequals, one class i.e., the master class having all rights and the other,—the slave class having no rights and their relationship was one of exploiter and the exploited.

In course of time, the slave system also crumbled giving rise to the *feudal system*. The slave masters became the feudal lords who were the owners of land and the slave became the serf. The difference between a slave and a serf is significant in view of the fact that the right to life of a serf was recognised and he was given some land which he could cultivate for the maintenance of his family though he was under compulsion to work for his feudal lord whom he could not desert. The divine right theory was invented at this time to justify royal absolutism under whose protecting shelter the feudal lord thrived. The relationship was one of rule and subjection and one of exploiter and the exploited.

The feudal system also did not come to stay but to be supplanted by a new system known as the *capitalist system* marked by the rise of the bourgeois or middle class. Beginning from the seventeenth century right up to the first decade of the twentieth century, many changes—changes in the field of production as well as in the world of thoughts and ideas brought about a fundamental change in the European social system led by this middle class. The ideals of a democratic government—those of liberty, equality and fraternity were held out to the people by the French revolutionaries and the leaders of the American war of Independence. But long long before it the ideal of liberty was firmly established in England by wresting a number of rights from the hand of the king by limiting his absolute power. All these inculcated the doctrine that all people had some inalienable rights which were inviolable and by virtue of these fundamental rights, all people had equal rights to participate in the affairs of the state. In other words, at this stage a number of civil and political rights of citizens were recognised. But economic rights such as the right to be employed the right to reasonable wage, the right to rest, leisure, cultural pursuits, etc., were kept in abeyance. But it is a well-established fact that other rights are meaningless in the absence of economic rights. The right to vote is a mockery to a hungry man. Under the capitalist system, the productive system is such that wealth is concentrated in the hands of the few, the state structure also reflects and represents mainly its economic structure. Contemporary laws, ideas, art, philosophy and other outer-structure of the state are controlled by the class who have economic power in hand. Thus it is a common knowledge that in Great Britain, the U.S.A. and in India, different economic interests exert a tremendous influence upon the government. Even the few civil and political rights guaranteed to the citizens are from time to time curtailed by special laws such the Maccarran law in the U.S.A. and the notorious MISA in India. If rights mean anything in capitalist system, it means only political rights and those also may be withdrawn at the pleasure of the giver. The capitalist bourgeois cannot even think of giving economic rights because that will put an end to their exploitation and hegemony. The capitalist system not only exploits the peasants and workers within the country but also breeds imperialism which means occupation of foreign territories for purposes of exploitation of natural resources and conversion to christianity of a foreign people whom they look upon as barbarians.

But the capitalist system received almost a death blow from the *Socialist System* that came in the wake of *the ten days that shook the world*. The shaking was of such a magnitude that it demolished the old-world ideas about property, production, distribution and exchange—state, government, citizenship—its rights and duties and above all it created a new class of men with new outlook of life. So it is only natural that the ideals of liberty and equality of this new world will differ fundamentally from those of the old world. The socialist system aims at the abolition of private property and law of inheritance and its replacement by socialisation of all means of production, collective efforts in the field of production and distribution according to the quantity and quality of labour applied. Under the socialist system in the U.S.S.R. there is no exploiter class as there is no rent, interest and profit. Thus the socialist system put an end to class rule and with it ended class-war.

The socialists look upon liberty and equality exclusively from the social point of view. Rights—civil, political or economic are counterparts of, and complementary, to one another. Rights have no significance unless they are conducive to social interest. Rights in a socialist system, are conceived and enforced in such a way precluding the chances of a conflict between civil, political and economic rights and conflict between individual rights and collective rights. In a socialist system, civil, political and economic rights have been guaranteed to that extent which is necessary for the material and moral development of the individual personality in consonance with the newly created socialist order so that the capitalist system may not rise again. The socialist system considers bread as more important than a vote. So economic rights have been given a priority to civil and political rights.

Duties of Citizens. We have already seen that rights imply duties. A duty means an obligation on the part of a citizen, the performance of certain tasks by the citizen as prescribed by the state. Duties are of two kinds: moral and legal. *Moral duties* are enjoined on the citizen by his conscience or by the public opinion of society but they are not enforceable by courts of law. Nevertheless, moral duties are the foundation of legal duties.

Legal duties, on the other hand, are enforced by the law of the land, non-performance of which entails punishment on a citizen. As the state is the source and guardian of all rights, it can claim something from the citizen in the form of obedience to its laws, military service in time of war, payment of taxes, etc.

The duties enjoined by the state on a citizen has a *positive* as well as a *negative* side. In its positive aspect, a duty involves the performance of certain tasks by the citizen as prescribed by the state, e.g., obedience to laws, payment of taxes, honest exercise of franchise, etc. There are also certain negative duties imposed by the law of the state upon the citizen. In every state, there are laws which impose a duty on the citizen not to interfere with the rights of other citizens. The duties of a citizen may be summarised as follows:—

(a) To obey the laws of the state, (b) to owe allegiance which implies the duties of service in war and helping public officers in maintaining law and order, (c) to serve the government in various capacities, (d) to pay taxes and local rates and (e) to exercise the right to vote honestly.

Duties of the State. The state has also certain duties towards its citizens. In order that citizens lend their willing co-operation to the work of the state, it

is necessary that the state should impart a healthy civic consciousness to the people. This can be done by making the citizens realise that their interests are inseparably connected with the interests of society at large and that there is no conflict between the welfare of the individuals and that of the community. It is therefore the duty of the state to make good laws which will give adequate opportunities to all to develop their personality according to their individual aptitudes. Laws should be so framed that the existing inequalities and injustice in every sphere of life are removed so that the citizens may feel secure and contribute their best to common good. It has been well said that "the work of a modern state runs to the roots of life, liberty, property and pursuit of happiness."

SUMMARY

I. *Meaning.* The word *liberty* is used in different senses.

(a) *Natural liberty.* It means the freedom which a person is allowed to enjoy by the law of nature. Such liberty does not actually exist.

(b) *Civil liberty.* It means freedom of action and immunity from interference. Civil liberty is enjoyed by a man in civil society.

(c) *Political liberty.* It implies the power to influence the government of the state. The contents of political liberty are a number of such rights which enable a citizen to have a share in the authority of the state.

(d) *Economic liberty.* Economic liberty means the freedom from want and freedom from fear. It implies democracy in industry.

(e) *National liberty.* It means the independence of a nation from foreign control. In the absence of national liberty, the citizens of a state cannot enjoy full civil, political or economic liberty.

II. *Law, Liberty and Authority.* Liberty, in the true sense of the term, does not mean a complete absence of restraints. In order that all may enjoy liberty for developing all that is best in them, liberty must be regulated by law. The institution of public authority places certain restrictions on the freedom of action of the individual. These restrictions are known as laws, meant for protecting the liberty of all. True liberty can therefore exist only under the state. Lawless liberty is licence.

III. *Liberty in the Modern State.* Liberty of the citizens in a modern state depends upon the extent of opportunities provided by the state to the citizens for the development of their personality.

Dictatorship and liberty are mutually exclusive and they are contradictory terms. Dictatorship implies rule by one man supported by a single political party which tolerates no difference of opinion. Hence under dictatorship, liberty disappears altogether.

The democratic states of today take great care in maintaining a system of rights guaranteed by the constitution. But even in democracies, individual liberty has been threatened by (i) excessive state paternalism, (ii) rise of bureaucracy and (iii) rigid party control which stifles public opinion.

IV. *Liberty and Equality.* Equality on the one hand, means absence of special privilege; on the other, it means adequate opportunities should be given to all to develop all that is good in them. Thus true liberty can exist where the state is impartial in its attitude towards all.

V. *Origin of the Ideal of Equality and its application to Modern States.* The ideal of equality of men was born of the inequality which existed in ancient societies in the form of invidious distinction between man and man. The ideal is a protest of the weak against unjust

privileges of the strong. The claim to equality is based on historical and ethical grounds. All men are equal in so far as they possess rationality which distinguishes them from the beasts. Equality implies social, political, legal and economic equality. In modern times, greater emphasis is laid on economic equality which means equalisation of opportunities to all irrespective of their birth or rank or status. In the absence of economic equality, political or legal equality becomes meaningless.

VI. *Rights and Duties.* A right is a power enjoyed by a citizen against others, and recognised and guaranteed by the state. It enables a citizen to reach his best self.

VII. *Correlation of rights and duties.* Rights imply duties. My right imposes a duty on me to respect others' rights. It also imposes a duty on others not to interfere with my rights. Thirdly, it imposes a duty on the state not to allow others to infringe my rights. Rights are therefore the counterpart of duties.

VIII. *Classification of Rights.* Rights are either *civil* or *political*. The contents of civil liberty are a number of civil rights, such as, (a) right to life, (b) freedom of movement, (c) right to work and property, (d) right to reasonable wages and hours of work, (e) freedom of contact, (f) freedom of association, (g) freedom of religion and conscience, (h) freedom of speech and press, (i) right to family life and (j) right to education. Political rights consist of (a) right to vote, (b) right to be elected as a member of the Legislature, (c) right to hold public office and (d) right to discuss and criticise the policy of the government.

The rights enumerated above are not to be regarded as absolute. In case of abuse of any these rights by the citizens, they may be deprived of their rights by the state. It is held by many writers that freedom of opinion is not subject to any restrictions even during war.

IX. *Safeguards of Rights.* Rights of citizens are safeguarded in various ways, such as, (a) a written constitution containing a bill of rights, (b) rule of law, (c) separation of powers, (d) independence of the Judiciary, (e) spirit of the people and (f) democratic form of government. Of these, the last two are the most important.

X. *Duties of Citizenship.* Duty means an obligation. There are moral as well as legal duties. The legal duties of a citizen are (a) obedience to the law of the state, (b) allegiance and service, (c) support of public officials and (d) payment of taxes.

Rights in different Social Systems—Under primitive communism all men were equal and hence they enjoyed equal rights. Under slavery, the difference between man and man had already arisen as a result of which the slave master had absolute rights while he had none—not even the right to life. Feudal system conceded to the serf only the right to life, the feudal lord having the monopoly of all their rights. The capitalist system brought the message of liberty, equality and fraternity for all but in reality, these were mainly meant for the middle class capitalist. The vast body of the working people were denied liberty and equality as they had no economic liberty. The socialist system, it is said, has brought an order of society in which not only civil and political rights but also full economic rights have been made available to all.

XI. *Duties of the State.* The duty of the state consists in making all men happy. It should make good laws which will enable the citizens to develop all that is best in them.

QUESTIONS

1. "The liberty of an individual is not always in inverse ratio to the amount of state legislation." Examine and illustrate the statement. (C. U. 1939 ; Bom, 1941)
2. Define equality. To what extent does the realisation of civil liberty depend upon economic equality ? (Bom. 1938)
3. Distinguish between civil and political rights.

What are the fundamental principles on which the latter is based ? (Gauhati, 1949)

4. "Rights and duties are two aspects of the same thing." Discuss. (Punj. 1938)
5. Distinguish between 'civil' and 'political' rights. How are civil rights guaranteed in (a) U.S.A., (b) England, and (c) India ? (C. U. 1945)
6. Enumerate the more important fundamental rights which a citizen in a modern state enjoys. (C. U. 1951)
7. "Freedom of thought is the greatest prize to be won because it is the one condition of existence which makes life worth living." (C. Lloyd)
Examine this proposition. (C. U. 1963)
8. What is meant by the term 'liberty' ?
How far is it correct to say that law is an essential condition of liberty ? (Gauhati Hon. 1948)
9. What is meant by the concept of Liberty ?
"Sovereignty and Liberty are not contradictory terms."
Examine this proposition. (C. U. 1963)
10. Explain the concept of Liberty in Political Science and point out its various forms. In what sense is it argued that 'liberty may quarrel with itself' ? (C. U. Hon. 1963)
11. What is the meaning of Liberty in Political Science ? What are the safeguards of liberty in a modern state ? (C. U. 1963)
12. Analyse the concepts of Natural Law and Natural Rights. (C. U. 1965)
13. What is Liberty ? Is liberty opposed to equality ? (Gauhati, 1965)
14. "By liberty I mean the eager maintenance of that atmosphere in which men have the opportunity to be their best selves." (Laski). Discuss fully the implications of the statement. (C. U. Hons. 1967)
15. Rights imply duties. Duties may be negative or positive. Explain. (C. U. 1973)
16. Discuss the doctrine of Natural right. (C. U. 1970, 1976)
17. Analyse the nature of liberty and equality in any one of the following :—
(a) Liberal Democracy, (b) Socialist System. (C. U. 1980)
18. Analyse the nature of Rights in different social systems. (C. U. 1982)
19. Has the citizen rights against the state ? Argue your case. (C. U. 1982)
20. Discuss in brief nature of liberty and equality in a liberal democratic system. (C. U. 1985, 1989)
21. Discuss the nature of rights in different social systems. (C. U. Law 1987)
22. Discuss the right of resistance against the State. (C. U. 1994)

CHAPTER 11

UNIONS OF STATES

References for Chs. 11-13

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 Follet, M. P.—The New State, Chs. 16, 21.
 Marriot—The Mechanism of the Modern State, Vol. I, Chs. 9, 10, and Vol. II. Chs. 24-26, 37, 38.
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Principle of Classification. It is very difficult to classify states, for, all states are alike in nature. They possess the same essential characteristics, namely, population, territory, government and sovereignty. Though states differ from one another in respect of their size and population it will be unscientific to classify them on this basis.

Two principles of classification have been suggested : the first, on the basis of governmental organisation, and the second, on the basis of the number of persons by whom sovereign power in a state is exercised. Classification of states according to governmental organisation has been criticised on the ground that it is nothing more than a classification of governments and that it ignores sovereignty which is the most essential attribute of the state. Prof. Garner is of opinion that the best method of classification of states is to classify them on the basis of location of sovereignty. The earliest writer to classify states on this basis was the Greek philosopher Aristotle.

Aristotle's Classification. Aristotle's classification rests *primarily* on two principles. He classified states on a numerical basis, according to the number of persons in whom sovereign power of the state is vested, and *secondly*, on the basis on the end or spirit of the government. He subdivides each of these forms into normal and perverted or deviation forms. The state, according to Aristotle, is a moral entity and should pursue a moral end, namely, the good of the community. Normal states are those whose aim is to promote general welfare and those states which seek to secure the selfish interest of the rulers without any reference to common good are called perverted forms. Each of these three normal forms has its corresponding perverted forms. Aristotle's classification may be arranged in the following orders :—

Rule of	Normal form	Perverted form
One	Monarchy	Tyranny
The few	Aristocracy	Oligarchy
The many	Polity	Democracy

The above Aristotelian classification has been criticised on the following grounds :—

It is alleged that the classification does not rest on any organic fundamental principle but upon mere numbers. So the classification is mechanical and quantitative whereas it should have been spiritual and qualitative in character.

The above criticism is not a well-founded one because Aristotle distinguished between the normal and the perverted forms with due emphasis on the ethical and qualitative test.

In the *second* place, Aristotle's classification is regarded by many as a classification of governments and not of states. His classification has been the cause of much confusion because it does not make any clear-cut distinction between the forms of state and forms of government. But Burgess opines that Monarchy, Aristocracy and Democracy do not represent the rule of one, the few or the many, but the sovereignty of the one, the few or the many. They are therefore distinct types of states and not governments.

Thirdly, his classification has been criticised on the ground that it is not exhaustive and as such not applicable to modern types of states. Aristotle was a philosopher of the city-state and therefore he could not anticipate the vastness and complexities of modern states. Hence his classification is out of date and cannot explain the forms like Unitary and Federal, Parliamentary and Presidential. It also leaves out of account another form of government, viz., Theocracy in which supreme power is believed to be vested in God or in an anointed agent of God. Tibet was an example of Theocracy.

Lastly, it is very difficult to classify states on the basis of the location of sovereignty. In modern times, sovereignty is scarcely vested in the one or in the few. Again from Aristotle's point of view, Great Britain and Afghanistan may be placed in the same category,—namely, monarchy, although the two states differ fundamentally.

Whatever defects the Aristotelian scheme may have, it is not entirely valueless to us today. Barkar says that we do not distinguish states today on moral grounds because the moral meaning of the state is not so clear to us as it was to Aristotle. Yet the category of end is still employed to classify states, whenever states are classed as war-states, culture-states, law-states or commerce-states. And we distinguish between free countries where the common weal is pursued by the government and despotically-governed countries where the interests of the ruler predominate in a way somewhat analogous to Aristotle's distinction between constitutional government which rules in an unselfish spirit for the good of its subjects and despotic government which rules in a selfish spirit for the good of the ruler.

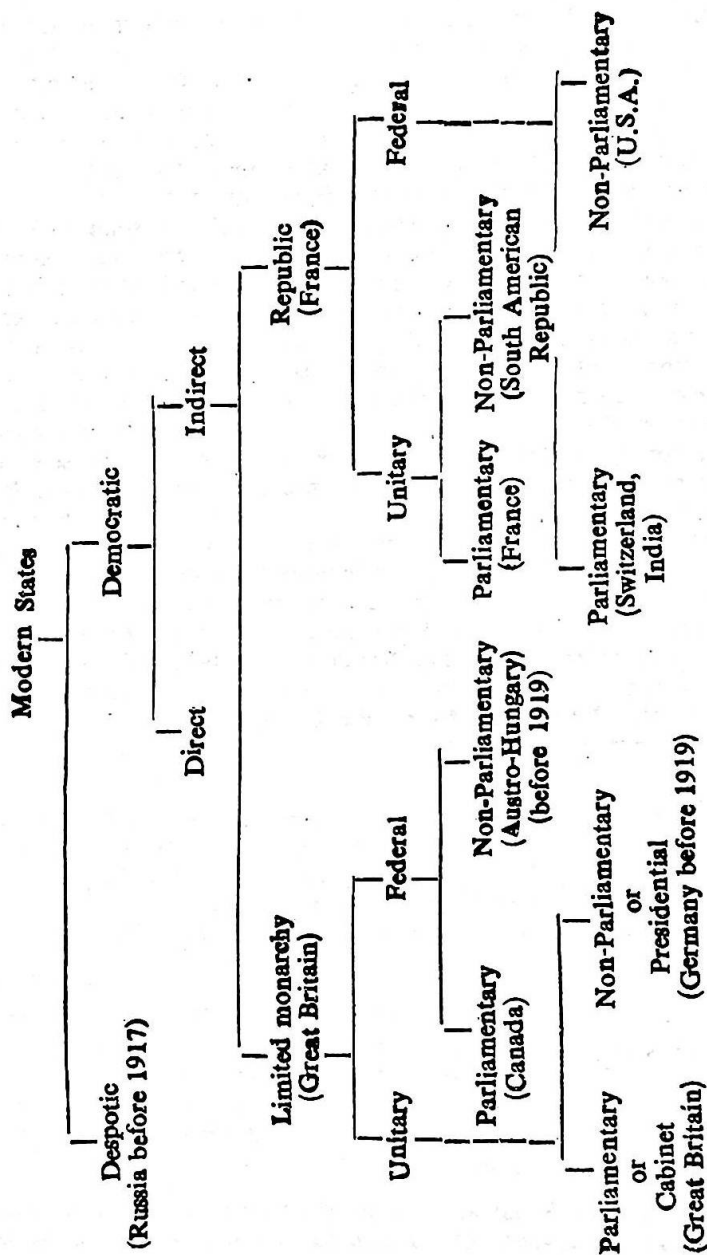
Mixed States. A mixed state has been defined by many writers as one in which the characteristics of monarchy, aristocracy and democracy are combined in varying proportions. The Roman Republic was an example of a mixed state of the ancient world. It was labelled as a mixed state because it had consuls, senate and popular assembly representing the monarchical, aristocratic and democratic features respectively. In modern times, Great Britain is cited as an example of a mixed state having the King, the House of Lords and the House of Commons to represent the monarchical, aristocratic and democratic elements.

But a mixed state is a misnomer and an absurdity in practical life. Monarchy means rule by one person, aristocracy rule by more than one and democracy means rule by the many. A state cannot, at the same time, be governed by the combination of any two far less by all the three combined.

Aristotle's Cycle. According to Aristotle, governments change in a cyclic order. The first government was in the form of monarchy. Monarchy, in course of time, degenerated into tyranny and the tyrant was overthrown and replaced by few virtuous men. The government thus became an aristocracy. Soon aristocracy degenerated into oligarchy which in its turn was replaced by Polity. Polity

turned into Democracy which, according to Aristotle, means mob-rule. Mob-rule cannot last long. People ultimately place themselves under the protection of a competent ruler and thus mob-rule necessitates the reappearance of monarchy. In this way, the cycle repeats in the usual order.

Other Classifications. Among the modern classifications, mention may be made of those of Montesquieu, Bluntschli and Marriot, each of whom follows his own method of classification. The commonly-accepted classification is that of Prof. Leacock which is as follows :—



Each of the above forms given by Leacock requires explanation. He first divides states into two classes, namely, despotic and democratic. In a despotism, supreme power is vested in one person who rules according to his own caprice without any reference to the will of the people. Despotic states are on their last legs and are fast being placed on democratic footings. A democracy is one where the supreme power is vested in, and exercised by, the general body of the people. Democratic states have been subdivided into Limited Monarchies and Republics. Limited or Constitutional monarchy is a form in which the head of the Executive is the hereditary king who usually holds office for life. But his powers are limited by the constitution. Actual powers belong to the Cabinet or Council of ministers responsible to the Legislature. In a republic, the supreme Executive is elected directly or indirectly by the people for a definite period. Each of these two types has again been classified into unitary and federal on the basis of concentration or distribution of powers. A unitary state is one where there is a central supreme authority and that authority is the sole legal sovereign. There may exist local governments in the forms of provinces, countries or departments to which the central government may delegate some of its powers but delegation does not mean division of authority. The central government may withdraw powers from the local governments. A federal state is the outcome of the union of a number of states which by joint agreement create a common organ at the centre to which they surrender some specific rights, retaining to themselves other rights. Thus there are two sets of government in a federation, one at the centre and the other, of the component units. Both of them derive their authority from the constitution drawn up and adopted by all the component states and the constitution determines the jurisdiction of both the sets of government. There is, in every federation, the provision for a supreme Judiciary which acts as the custodian of the constitution by preventing the encroachment of the two sets of government upon each other. Unitary and federal states are further subdivided into Parliamentary and Non-Parliamentary on the basis of the relation between the Executive and the Legislature. The Parliamentary form is otherwise known as the Cabinet or Responsible form of government; the Non-Parliamentary is sometimes called the Presidential or the Congressional Government. A Parliamentary form is one where the Executive is controlled by the Legislature. In the Presidential form, the Executive is not a part of the Legislature and is not responsible to it.

Part-Sovereign States. There are writers who attribute state-hood to certain political communities which cannot be regarded as states strictly according to the definition of political science. They are neither internally supreme nor do they possess external sovereignty. They enjoy a semi-independent status and depend upon other states in the matter of foreign relations. There are *six* kinds of such states :—

(1) **Component members of a federal union.** They are not states at all. Sovereignty is an indivisible unit and it resides in the constitution which divides and distributes the political functions of the government between the central and local governments. In a federation, there is one state with a single sovereign authority. The component states are mere administrative divisions and are not recognised as states by other states.

(2) **Vassal States.** A vassal state is one which is generally free from foreign interference in respect of its internal affairs. But it is under the

suzerainty of another state in the management of foreign affairs and as such it has limited international capacity. There are at present no examples of Vassal states. Rumania, Bulgaria, etc., were vassal states under the suzerainty of the Ottoman Empire.

(3) **Protectorates or Protected States.** Hall defines a protected state as "one which in consequence of its weakness, has placed itself under the protection of another power on defined conditions or has been so placed under an arrangement between powers the interests of which are involved in the dispositions." The status of all the protectorates is not the same. They may vary from the status of a colony to the possession of complete control over both internal and external powers. Korea was a protectorate of Japan, the latter exercising absolute control over her internal as well as external affairs. The little republic of Monaco, though theoretically under the protection of France, is virtually independent.

(4) **Mandated States or States under Mandates.** After the conclusion of the First World War, Germany and her allies were deprived of their overseas colonies which were placed under the care of the League of Nations. The League provided for the administration of these former German and Turkish territories by placing them under certain mandatory powers which were to assist them in the task of administration of these territories under the supervision of the League. The mandated states were classified into three groups on the basis of their economic and political advancement and it was decided that as soon as conditions would permit, the mandated states would become free and would be allowed to stand on their own legs. Thus Syria was placed under mandate to France and Palestine and Iraq to Great Britain.

(5) **Self-Governing Dominions.** The British self-governing Dominions may be cited as examples of part-sovereign states. Since the First World War, these self-governing Dominions have attained a status which is as good as independent. They are theoretically under the control of the Mother country, though practically independent.

(6) **Neutralised States.** Certain states on account of their peculiar geographical situation and scantiness of resources and power may voluntarily or for the sake of maintaining balance of power, choose to remain neutral. It implies that the independence and integrity of the state neutralised are guaranteed by the joint action of other states and the state neutralised is required to abstain from waging war except for purposes of self-defence. Example of a neutralised state at present is Switzerland.

(7) **Simple and Composite States.** *A simple or a unitary state* is one which has a single supreme government, exercising authority over the entire citizens. In a unitary state, all powers are centralised in one organ which may delegate some of its powers to local bodies and can revoke them at will. England and France are the best examples of unitary states.

Composite states are formed by the union of two or more states. Composite states are generally classified as (a) Personal union, (b) Real union, (c) Confederation and (d) Federation.

(a) *Personal unions* come into existence when two or more states unite together by accepting the same reigning monarch as their sovereign. Thus when the same person is accepted as the ruler by two or more states, a personal union may arise. The operation of the law of succession may also fix the crown of two states upon the same person. It is a temporary union of sovereign states, the king being the only symbol of unity among them. The member states of a personal union retain their supremacy both in internal and external affairs. If a war breaks out between the members of a personal union, the war is regarded as an international war and not a civil war. The union between England and Scotland from 1603 to 1707 and between England and Hanover from 1714 to 1837 are examples of such union.

(b) *Real unions* occur when two or more states unite together under a common monarch, their identity being merged in that of a common state for external purposes. The member states of a real union retain their separate existence for all internal purposes. They maintain separate laws and institutions, and have distinct organisations for the administration of local affairs. But they differ from personal union in this that they maintain a common organisation for regulating their international relation and promoting certain other matters of common interest. In a real union, therefore the component states retain internal sovereignty but surrender their external sovereignty and as such it is to be treated as one state with one sovereignty. A war between the members is regarded as a civil war. The best example of a real union is furnished by the Austro-Hungarian union between 1867 and 1919.

(c) *Confederations*. A confederation is an association of independent states united together for the purpose of achieving certain particular objects, especially the maintenance of their common external security. The association of states under confederation does not create a new state but the component states only agree to adopt a concerted policy and action in specific matters. They create a common central organisation in which each of them is represented by its own delegate. The states in a confederation do not merge their identity in a common state but retain their full sovereignty with the right to withdraw themselves from the union at their sweet will. A confederation is a union which is stronger than a mere alliance of states but it is no more than a band of independent states, rather than a banded state. A confederation has no citizens, no territory of its own other than those of the member states. A confederation is therefore not a state as there is no single sovereignty but as many sovereignties as there are states composing it. If a war breaks out between two or more of them it is international war and not civil war.

A confederation differs from an alliance in that the former possesses some sort of a central organ through which the will of the member states is generally expressed but an alliance is merely an agreement among sovereign states for achieving certain common ends. But there is no central organisation of an alliance to compel any of the contracting states to fulfil its obligation. An alliance is therefore the weakest form of union of states.

History abounds in examples of confederations, for the tendency of neighbouring states from the earliest times to modern days has been to associate themselves together for promoting certain specific objects, especially for organising their common defence. Among the Greeks, confederations were numerous, the more important being the Achaean and the Lycian leagues. During the Middle

Ages, mention may be made of the Rhenish Confederation (1254-1350) which had a membership of about seventy independent states. The more important of the confederations during this period was the Hanseatic League (1367-1669) which was originally organised for trading purposes but eventually developed into a great political power with a tremendous influence on the international affairs of Europe. The German Confederation (1815-1867) and the Central America Federation (1907-1918) are the two latest examples of confederations. A confederation represents a passing phase of political development—which reaches its culmination with the formation of either federal unions or unitary states. Germany, Switzerland and the United States of America all bear testimony to the above fact.

(d) *Federations.* When a number of states unite together under a common sovereignty and set up a common central government for the management of certain affairs, or "Where a number of provinces or dependencies are, by a unilateral act of their common superior, transformed into largely autonomous self-governing communities, we have a federal union." The U.S.A., the Dominion of Canada and the Swiss Republic are examples of federal unions. In a federal union, the member states are completely united and merged together into one. They lose their sovereign authority and are bound together by one central government which regulates all external affairs and also matters of common concern which require uniformity of legislation and administration. But each member of the Union has a local government and enjoys full local autonomy free from the control of the central government. In a federation, therefore, there is one state with a single sovereignty and if war breaks out between two or more of them it is civil war and not international war.

Distinction between Federations and Confederations.

(a) A federation brings into existence altogether a new state, the member states having completely lost their sovereignty by merger, retain only some amount of local autonomy. They cannot withdraw from the union.

In a confederation, the states joining together, retain their sovereignty and are legally free to secede from the union.

(b) In a federation, the political functions of the government in their entirety are divided and distributed between two sets of government, central and regional. This division of power constitutes one of the essential features of a federation.

In a confederation, there is no division of powers and no effective central organ to formulate and enforce common laws and regulations over the entire union. All powers belong to the individual states forming the confederation.

(c) A federal union is marked by the supremacy of the constitution which binds both the government at the centre and the local governments. The constitution provides for the establishment of a Federal Judiciary which acts as the guardian of the constitution and decides disputes between the two sets of government.

A confederation has nothing in the nature of a constitution to bind its members. The absence of a judicial machinery to decide disputes between members makes its position weak and the members can withdraw from the union at will.

(d) A confederation has no citizen to whom the resolution adopted by the confederation may be issued or from whom obligations or duties may be

demand. Citizens owe allegiance to their respective states. In a federation, citizens owe a double allegiance; *first* to the central government for federal matters and *secondly*, to the local governments in purely local affairs.

(e) A federation creates a new nation over which the central government has some amount of direct control. It can formulate laws and enforce them upon all citizens of the component units directly through its own governmental machinery.

A confederation has no direct control over individuals of member states. The resolutions of a confederation therefore lack the legal character and are inoperative until adopted by the component states and enforced upon their individuals by their respective government.

(f) A confederation is what is known in Germany as a '*Staatenbund*', i.e., a band or league of independent states. There is a plurality of sovereignty, as many in fact as there are states composing it.

A federation is a single state with a single sovereignty. It is a '*Bundestaat*', i.e., a banded state as opposed to a band of states with plurality of sovereignties.

Theocracy.—Theocracy is a form of government which may be identified with the government called absolute monarchy. In such a form, the head of the state is regarded as the Vicegerent of God through whom the will of God is revealed to the people. The ancient Jewish and Egyptian kingdoms were theocracies in this sense. Before the Chinese incursion, Tibet was called a theocratic state because the supreme power of the state was vested in the Dalai Lama who was believed to be an anointed agent of God. In modern times, the term theocracy is sometimes employed to refer to a state in which religion plays an important part in the affairs of the state. Some of the Islamic states of the Middle East are referred to as theocracies inasmuch as their laws have been based on the Holy Koran. With the growth of democratic ideas, theocratic states have almost disappeared.

SUMMARY

I. *Principle of classification*—States may be classified either on (a) the basis of governmental organisation or (b) on the basis of number of persons exercising sovereign authority.

II. *Aristotle's classification*—Aristotle's classification is based on two principles, (a) number of rulers and (b) end or spirit of the government :—

Rule of one—Monarchy—when degenerated is—Tyranny,

Rule of the few—Aristocracy—when degenerated is—Oligarchy.

Rule of the many—Polity—when degenerated is—Democracy.

The main criticism against Aristotelian classification is that it is quantitative rather than qualitative. It is also not applicable to modern states. Barker says that Aristotle's classifications is still employed to distinguish good states from bad states. Aristotle also says that the different forms of government change in a cyclic order.

III. *Other classifications*—Other writers have also classified states. Of these Prof. Leacock's classification is regarded as the best. He classifies states first into despotisms and democracies. Democracies are subdivided into limited monarchies and republics. Each of these two is further subdivided into unitary and federal states. There is a further subdivision of each of the four types of states, viz., states with Parliamentary and states with Non-Parliamentary forms of Government.

IV. *Part-Sovereign States*—Component states of a federal union, Vassal states, Protectorates, Mandated states are regarded as part-sovereign states. The status of self-governing dominions and neutralised states is nowadays recognised as almost as good as independent.

V. *Simple and Composite states*—A simple or a unitary state is based on the principle of concentration of power in a single central authority which is supreme in all matters. The central authority may create local governments to which some amount of power may be delegated.

A composite state is the outcome of the union of two or more states. There are four different forms of a composite state :

(a) *Personal unions*—They are formed by the union of two or more states which maintain their separate statehood in all other respects excepting that they have a common King.

(b) *Real unions*—They are formed by the union of two or more states under a common monarch, separate in the administration of internal affairs but united for external purposes.

(c) *Confederations*—They are a band of independent states united for the purpose of achieving certain common purposes. Mutual dependence is the only bond of union in a confederation.

(d) *Federations*—When several states unite together to form one state with a single sovereignty, a federation comes into existence. The member states enjoy certain amount of local autonomy independent of the control of the central government. A written constitution divides and distributes powers between the two sets of government and a Federal Judiciary acts, as the custodian of the constitution.

VI. *Distinction between Federations and Confederations*—A federation is a banded state with a single sovereignty exercising control over all citizens through its own governmental machinery. A confederation is a band of independent states with plurality of sovereignty and having no direct control over the citizens of the component states.

QUESTIONS

1. "The difference between a Federation and a Confederation arises wholly from differences in respect of the location of sovereignty in the grouping." Explain this.

(C. U. 1947)

2. Do you agree with the view that Aristotelian classification of states is unsuited to the facts of modern political organisation ?

3. How would you classify forms of government ? (C. U. 1952)

4. How would you distinguish a Federal union (a) from a confederation, and from (b) a unitary state. (C. U. 1957)

Illustrate your answer.

CHAPTER 12

FORMS OF GOVERNMENT

Principle of Classification. Like states, governments may also be classified into Monarchy, Oligarchy, Aristocracy and Democracy, the principle of classification being the same, viz., the number of persons in whom sovereign authority is vested. But such a classification is unscientific because the form of government in a state is not identical with the form of the state. As for example, a democratic state may have a democratic form of government or it may have a government organised on aristocratic basis. Thus the British government is at once a combination of monarchical, aristocratic and democratic elements. Almost all governments are mixed in their forms.

Monarchy. When supreme governing power is vested in a single individual, the form of government is called Monarchical. This is the oldest and the most widely recognised form of government recorded in human history. Monarchy may be either *hereditary* or *elective* or both. The Greek, the Indian and the German Kings were usually hereditary but the Roman Kings were elective. The English monarchy is hereditary but it is elective in the sense that the British Parliament reserves the right to regulate the law of succession at its will. Considered from the standpoint of their character, monarchies may be classified into *absolute* and *limited* or *constitutional monarchies*. An *absolute monarchy* is one in which the monarch is all in all. He alone represents the state and is bound by no will except his own. A clear idea about the nature of absolute monarchy may be formed from the famous declaration of King Louis XIV of France, namely "I am the state." The need for absolute monarchy was felt in early times when it helped build up political organisation and ensured the maintenance of law and order. Monarchy possesses elements of strength, such as, simplicity of organisation, ability to act quickly, unity of counsel, promptness of decision and a certain prestige in the conduct of foreign relations.

But its great demerit lies in the fact that the government is conducted in the interest of the monarch himself without any reference to the will of the people. Under this form, there is only one patriot and the patriot is the absolute monarch himself. People are not allowed to participate in political affairs and therefore it retards the growth of good citizenship.

Limited or Constitutional monarchy. This is a form of government in which the power of the monarch is limited by the prescriptions of a written constitution or by conventional principles of an unwritten constitution. The best example is furnished by the British monarchy which is practically a democracy. It is a form in which "the people wills and the King executes." He reigns but does not govern.

Oligarchy. When the supreme power of the state is vested in and exercised by a relatively small group of men, the government is called an oligarchy. Oligarchy includes two other types, namely, *Plutocracy* and *Aristocracy* which are also governments by the few. Plutocracy is a form of government where the decision-making power of the government lies in the hands of the wealthy few. *Theocracy* and *Aristocracy* are two other forms which have been discussed separately.

Aristocracy. When the supreme governing power of the state is exercised by the few, the government is said to be aristocratic. The literal meaning of aristocracy is 'the rule of the best' and as the best are the very few, aristocracy is a government in which only a minority of citizens have a share. Aristocracy may mean either rule by aristocracies of birth or aristocracies of wealth or aristocracies of education and culture. Plato and Aristotle of the ancient world and Lord Bryce of modern times hold that aristocracy is the best form of government in which a small band of highly educated and public-spirited men are placed in charge of government.

The great merit of aristocracy is this : "It emphasises quality rather than quantity, character rather than mere number." Aristocracy is based on the claim of the natural rulers to command and so it entrusts powers to those who are best fitted to rule. Moderation is the governing principle of aristocracy and as such it always seeks to pursue a policy of conservatism by turbing the passions of democracy and at the same time holding in check the absolute tendencies in monarchy.

But the great weakness of aristocracy lies in the fact that it is very difficult to choose the best men by whom aristocracy is supposed to be ruled. Birth in high family, possession of wealth or military qualities do not necessarily guarantee good or efficient administration. Aristocracies generally tend to degenerate into oligarchies, a government by a wealthy minority in their own interests characterised by intrigue, selfishness and arrogance of the rulers. Under this form, the masses are excluded from a share in public administration and hence they cannot expect justice or sympathetic treatment.

Aristocratic element in Modern Government. If aristocracy mean rule by the numerical minority, all governments are, in a sense, aristocratic in their essential character. Although power was concentrated in the hands of the absolute monarch in the ancient world yet he had a band of advisers to give him counsel. Thus the essential feature of the governments of the ancient world was the exclusion of the great majority from a share in administration which was actually vested in the few. The overthrow of the feudal system and the introduction of franchise could not altogether change the aristocratic character of the governments because franchise was confined only to a small fraction of the population.

Even modern democracies which are based on universal adult franchise cannot claim to be completely free from aristocratic influences. These are also accused of being aristocratic in their essential character. Two of the most vital powers of a modern government, namely, those of making and enforcing laws—ordinary and financial—still rest in the hands of a very small group of men who are entrusted with ruling authority on the ground of their superior political sagacity and ability. Modern party organisation with its various vote-catching devices has enabled this practically self-elected leaders to guide the destiny of the bulk of the people. Fifty per cent of the population of even politically advanced states are for some reason or other without the right to vote ; the greater part of the rest are amenable to political propaganda and this being the case, party leaders form the government and run the whole show in the name of democracy. All democratic governments with the sole exception of Switzerland are run by the few with of course slight differences in their outward look. Taking advantage of the ignorance and incompetency of the many, the few rule on the

score of their proved superiority over the many. But it must be said that modern democracies though they are aristocracies in disguise, cannot completely ignore the force of the popular will.

Democratic or Popular Government. Perhaps, there is no other single word in the literature of political science like Democracy which has given rise to such a wide controversy among political writers. (The ideal of democracy is not exclusively a product of modern civilisation, rather a very ancient ideal, the realisation of which has been the constant objective of mankind in all ages and in all climes. The word *democracy* comes from two Greek words, viz., *demos* and *cratos*, the former meaning the people, the latter power. [Democracy therefore means power of the people.] It implies faith in the common man and proclaims the equality of men, none being a mere means to the other's end. Democracy attaches great importance to individual personality and seeks to create a social machinery through which the development and enrichment of personality become possible. Democracy may mean either a *form of society* or a *form of state* or a *form of government* or it may mean all these three together. Democracy as a form of social organisation rests upon the principle of social equality.) It pre-supposes the absence of class or caste distinction. A society becomes really democratic when the members of the society are economically equal. A democratic state is one in which the ultimate power of the state rests in the hands of the people. (In such a state, everyone has a direct voice in the affairs of the state, irrespective of his social position.) [Democracy as a form of government, means a government in which the people exercise an indirect control over the government of their country through their representatives. (In modern times, democracy implies something more than a mere form of government, a type of state or an order of society.)] There are thinkers who are emphatically of opinion that the democratic ideal will remain imperfect unless the entire field of economic activities is democratised. True it is that the battle for democracy has been won in the social and political fields but industry still remains to be democratised. So the introduction of Workers' democracy in industry can only transform our society into a completely democratic one. According to Abraham Lincoln, democracy is a government of the people for the people and by the people. Modern democratic governments rest on the principle that every honest and self-supporting adult citizen, male or female, is competent to take part in the functions of the government, and in general, he is as much qualified as any other of his fellow-citizens.

Thus it appears that a state may be described as a democracy provided it gives the people opportunity through its various institutions for the exercise of the governing power. [It is a type of state in which the voice of the people is, in the last analysis, supreme and in which the people get ample opportunity not only to express their will but also to make it effective.] This pre-supposes the existence of some conditions in society which the state should strive to create and maintain so that each individual gets the fullest opportunity to contribute his best to social good.] These conditions are the equal rights of all adults to participate in all the political functions of the state provided the citizens possess the minimum qualification for the due discharge of their duties. (Liberty and equality for all and a feeling of fraternity are the indispensable minimum of democracy. Equality is thus the foundation-stone of democracy but equality, it should be remembered, does not mean only political equality, it also implies social, economic and legal equality.)

Democracy—Liberty, Equality and Fraternity. What is democracy? In the words of Abraham Lincoln, it is a government of the people, for the people and by the people. Liberty, equality and fraternity are the corner-stones of democracy. Liberty and equality are indispensable conditions of democracy and the fulfilment of these conditions leads to fraternity.

The chief features of a modern democracy in its political aspect are (i) indirect popular rule on the basis of universal franchise, (ii) rule of the majority, (iii) responsible government, (iv) alternation of power and (v) decentralisation of power through the institutions of local government.

(The party securing a majority of seats in the legislature at a general election held in accordance with law on the basis of universal franchise forms and runs the government. The minority party forms the opposition and keeps public opinion alert by its criticism of the government's policy and programme of work. If the party in power loses the confidence of the people by its unpopular acts, it is likely to lose its majority at the next general election when the minority party may step into its shoes by popular support.) Under this system governments rest on popular support alone. (The government is not only responsible to the people or to their elected representatives, but democracy does not also allow any of the parties to establish party dictatorship by monopolising political power for a long time.) (The normal and spontaneous working of democracy thus remains unimpaired by alternation of power. This democratic principle has been in operation in the working of the governments of the U.K. and the U.S.A. where alternation of power prevents monopolisation of power which implies an end of democratic rule.) (Democracy is a government by the people and as such it is in keeping with true democratic principle that the largest number of people should be directly associated with the working of the government. This is the reason why decentralisation of power is the fundamental principle of democracy. Decentralisation stands for dispersal of power and authority among a number of lower or subordinate units—it implies the process of transfer of power and decision-making authority to the bottom units of governments, i.e., local governments so that the latter may equally share power and responsibility. Central aid and advice may be helpful but freedom from central interference is more in keeping with democratic principle.)

The above description relates only to the governmental organisation of a democracy. Behind this democratic structure of the government, full realisation of the democratic ideal may be impaired by the existence of an undemocratic social, economic and judicial order. Democracy in order to be real must be a combination of social, political and economic democracy with opportunity thrown open to all to get equal justice from its judicial organisation. The ideals of liberty and equality may be realised in the political field by giving one man one vote but that is not enough. The ideals of liberty and equality must be extended to the social and economic life and more especially extended to the sphere of dispensation of justice.

Democracy in its social aspect re-affirms recognition of, faith in, and respect for, human personality regardless of caste, colour, creed, sex or rank. This recognition of human personality on the basis of equality produces a class of citizens who are equally conscious of their rights as well as duties. If everyone enjoys equal freedom and equal opportunity everybody becomes conscious of his reciprocal rights and obligations. This consciousness ultimately creates an atmosphere of fraternity by removing the causes of all conflicts.